



THE ONTARIO HUMAN RIGHTS CODE,
R.S.O. 1970, c. 318, as amended

IN THE MATTER OF:

the Complaint made by Mr. Conrad Taylor,
of Toronto, Ontario, alleging discrimination
in refusal to employ by Ontario Hydro.

APPEARANCES:

Steven J. McCormack Counsel for the Ontario
Human Rights Commission and Mr. Conrad Taylor.

Mr. Bruce H. Stewart, Q.C., Counsel for
Ontario Hydro.

A HEARING BEFORE:

Peter A. Cumming, a Board of Inquiry in the
above matter, appointed June 4, 1980, by the
Minister of Labour, the Honourable Robert Elgie
to hear and decide the Complaint.

DECISIONIntroduction

The Complainant, Conrad Taylor, of Toronto, is 35 years of age, is black, and was born and educated in Trinidad and Tobago. He has been a Canadian citizen since 1975, and is married with one child. In his Complaint (Exhibit #3), Mr. Taylor alleges a breach by the Respondent, Ontario Hydro, of s. 4(1) (b) of the Ontario Human Rights Code (hereinafter called the "Code") which reads:

4.-(1) No person shall,

....

(b) dismiss or refuse to employ or to continue to employ any person;

because of race, colour,.....ancestry, or place of origin of such person....

Hydro provides electricity for Ontario, and in doing so operates nuclear power generating stations in Ontario at Pickering, Douglas Point, and Bruce on Lake Huron.

The Evidence as it relates to the Factual Situation of the Complaint

Mr. Taylor apprenticed with British Petroleum in Trinidad as an engine fitter (which more generally can be referred to as a mechanical trade) for five years, received his certificate (Exhibit No. 4) and then worked for two years as a tradesman.

In 1967, he came to Toronto on a student visa and completed a year long course in mechanical drafting (Exhibit No. 5). He then studied auto mechanics and was certified as a motor vehicle repairer (Exhibit No. 6), and then worked for three years at various stores of Canadian Tire repairing

cars, and for some seven months at Canadian National Railways checking, and doing minor repairs to locomotive engines. Mr. Taylor then worked with a Toronto company, repairing engines and the like. After a visit to Trinidad for 3 to 4 months in 1975, he returned to Toronto and completed high school courses in maths, physics and chemistry (Exhibits Nos. 5, 7, 8 and 9) and worked with another local company, maintaining vehicles and washers and dryers. In 1976, he applied for admission to the mechanical engineering program at Lakehead University and was accepted.

However, Mr. Taylor also applied to Ontario Hydro for the position of industrial mechanic (the specific position is 'shift mechanical maintenance improver'-see Exhibit No. 22) with a Hydro nuclear power generating station in June, 1976, (the application is Exhibit No. 13) in response to an advertisement (Exhibit No. 11). There was much evidence about an undated letter (Exhibit No. 12) which Mr. Taylor thought he wrote and sent to Ontario Hydro in June before attending at Hydro's offices and completing the application. There was no question that he did write an undated letter of application in August (date-stamped "August 12" - Exhibit No. 15 - by Hydro on receipt). Hydro had no record of the so-called June letter and the copy put in evidence (Exhibit No. 12) was not date-stamped. The two letters were virtually identical in wording. In my view, Mr. Taylor was honestly confused about these letters, given the passage of time since these events, and I have no doubt in finding that there was in fact only one letter sent to Ontario Hydro, being the one received August 12, 1976 (Exhibit No. 15). It is also to be noted that Mr. Taylor's complaint signed in 1976 does not refer to any letter. The letter entered in



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evidence as Exhibit No. 12 was undoubtedly just a first draft of what became Exhibit No. 15.

I find, considering all the evidence, that Mr. Taylor completed an application form (Exhibit No. 13) with Ontario Hydro in June, 1976, did not hear further, wrote his letter (Exhibit No. 15) received by Hydro August 12, and Hydro then sent a telex to Mr. Taylor requesting him to come in for an interview.

There was also considerable testimony as to why and how Mr. Taylor's application (Exhibit No. 13) when received by Hydro in June was not put in the appropriate file. It went into file #18, apparently, rather than file #32 (the proper one for an applicant as an industrial mechanic at a nuclear power station). However, it seems Mr. Taylor did not indicate any file number on his application. Therefore, it was easily, and unintentionally misdirected. Moreover, when Hydro later received Mr. Taylor's letter (Exhibit No. 15), he was invited in for an interview on the basis of his letter, and presumably when he appeared at Hydro's offices for the interview September 10, 1976, he would have been asked by the receptionist to complete an application, he would have said he had already filed one, and the original application was then located in file #18 by the receptionist through the 'name' card index of Hydro.

When Mr. Taylor's letter (Exhibit No. 15) came into the Hydro office, a clerk would have marked it for the #32 applications file (being the "nuclear" industrial mechanic" file), and a decision was made by Mr. David Grice or Mr. Neil Donnelly, Hydro's interviewing officers, on the basis of the letter, that Mr. Taylor should be interviewed. Mr. Grice testified that he was certain he had never seen the Taylor application (Exhibit No. 13) until the actual interview.

Mr. Grice has an impressive background in his trade as a marine engineer, and an obvious broad knowledge of the multitude of mechanical (millwright, welder, machinist, pipefitter, engine fitter, etc.) trades pertinent to Hydro's needs at nuclear power generating stations. He immigrated to Canada, from the United Kingdom, in 1968 to become a shift mechanical maintenance tradesman with Hydro, the position Mr. Taylor was seeking in 1976. Mr. Grice completed Hydro's nuclear training program and later taught some of the courses, becoming a mechanical instructor, and ultimately a selection officer in 1976. Mr. Grice is obviously very competent in his knowledge of the various mechanical trades, and as a selection officer for Hydro.

Mr. Grice processes some 500 trainees in the shift mechanical maintainer "improvers" and "learners" categories per year, with four classes per year. A trainee completes a nine month program at a cost to Hydro of about \$25,000 per trainee.

Mr. Taylor, if he had been accepted, would have started in the January, 1977 shift mechanical maintainer "improver" class. Mr. Grice testified that Hydro would have received some 500 to 600 applications, of which some 135 were interviewed, and 24 were hired for this January, 1977 class.

Mr. Grice was looking for candidates with a recognized completed apprenticeship training in certain trades. At the end of four years, a nuclear power station industrial mechanic trainee becomes a journeyman mechanical maintainer.

Mr. Taylor was interviewed by Mr. Grice and Mr. Donnelly at Hydro's offices September 10, 1976. Mr. Grice tested Mr. Taylor on his knowledge and ability from the standpoint of his mechanical aptitude and suitability for the trade. He was given math problems, tested on his familiarity with tools, and the like.

Mr. Grice and Mr. Donnelly each interview (in succession, independent of each other), a candidate for 35 to 45 minutes and then compare notes briefly. They decide at that point as to whether or not a candidate will then proceed to complete a comprehensive written aptitude test. About one-half of the interviewed applicants are rejected at this point, and are not given the aptitude test. Mr. Taylor did receive the aptitude test.

A background in auto mechanics work is not related to Hydro's requirements, and Mr. Taylor's most recent work experience was mainly in auto mechanics. At the interview, Mr. Grice was skeptical of Mr. Taylor's skills as an engine filler because Mr. Taylor had been away from the trade for some time, and his presentation at the interview evidenced this. Moreover, Mr. Grice gave Mr. Taylor low marks in terms of his skills as an auto mechanic (Exhibit No. 21).

Mr. Grice testified that he found Mr. Taylor to be weak on mechanical procedures, and Mr. Grice was not favourably impressed as to how Mr. Taylor used the tools he was given during the interview. Mr. Grice's overall conclusion was that Mr. Taylor was very rusty, but he had made no final decision, and thought Mr. Taylor should proceed to take the written aptitude test.

At the interview, Mr. Grice did give Mr. Taylor a high rating (and generally higher than other, successful, applicants received) in his "general technical knowledge", (interview summation sheet - Exhibit No. 21), which indicates Mr. Grice held no bias.

Mr. Taylor's performance on the written aptitude test (Exhibit #22) confirmed Mr. Grice's conclusions in the previous interview. Mr. Taylor did very well in the category of numerical ability, but very poorly in the mechanical comprehension, as Mr. Grice had suspected from the interview. However, Mr. Grice was surprised that Mr. Taylor also did very poorly in the physical science comprehension category. The test (see also Exhibit Nos. 46, 47, and 48) is very comprehensive and objective.

Mr. Taylor's overall score of 12.52 on the aptitude test was acceptable, but not high. Of the 24 successful candidates, only two had lower scores, and several unsuccessful candidates had higher scores.

Mr. Donnelly's position was that of staffing officer with Manpower Resources and Development, Ontario Hydro. His role was to conduct a non-technical interview, to assess educational background and the general personal attributes of a candidate and evaluate such matters as whether the applicant was likely to be supervisable, how easily he would get along with fellow workers, as to whether he was stable, had initiative and drive, and his maturity.

Mr. Donnelly felt that Mr. Taylor had some difficulty and was vague in responding to some of his questions. Mr. Donnelly did not get meaningful answers about Mr. Taylor's career changes, and was left with uncertainty and concerns about Mr. Taylor's reliability, and

motivation, given his short employment periods, and what he had been doing at different points of time. He felt there would be no difficulty in Mr. Taylor getting along with fellow workers or being supervised.

At the conclusion of a day of interviewing, Mr. Grice and Mr. Donnelly would meet and decide upon candidates. On September 10, 1976, Mr. Donnelly was against offering a position to Mr. Taylor but Mr. Grice was not yet prepared to make a decision, and chose to put Mr. Taylor's candidacy on "hold", until he had assessed more candidates. Mr. Grice considered Mr. Taylor to be a borderline candidate and was waiting to see the further candidates who might apply. While a decision in respect of Mr. Taylor's candidacy was being held in abeyance, Mr. Donnelly arranged for a security clearance investigation of Mr. Taylor to be undertaken (necessary for anyone working at a nuclear power generating station) and medical forms to be sent out to him.

It was not unusual for these steps to be taken before a decision was made to hire or reject an applicant.

Mr. Grice's ultimate conclusion was that Mr. Taylor could be trained, but was not acceptable at the "improver" level. He testified he would have offered him a position at the "learner" level, and perhaps he should have, although he did not think to do so because he was looking for "improvers" at that point, and someone such as Mr. Taylor, who had completed his apprenticeship, would certainly not normally want to be considered as a "learner". (Mr. Taylor did not suggest in his Complaint or in his testimony that he thought at any time he would like to have been considered as a "learner" if he was unsuccessful in obtaining the position he implicitly applied for, that of "improver".)

There was a great deal of evidence about other applicants (Exhibit Nos. 25 through 43). Having reviewed all the evidence with respect to these applicants carefully, and considering their treatment in comparison to Mr. Taylor, I am unable to find any suggestion of discrimination, or unfairness in any way, toward Mr. Taylor.

It would seem that in each of the first three classes in 1976, there were non-white persons who were accepted as improvers (Exhibit No. 50) although it also seems none of these non-whites were blacks. As well, in 1977, of 61 improvers hired, seven were non-white.

It is to be noted that both Mr. Donnelly and Mr. Grice participated in the process of hiring non-whites as nuclear industrial mechanics in early 1976. Mr. Grice did give Mr. Taylor high marks in some aspects of his written subjective assessment, and if he were biased he could easily have given him low marks without detection. Mr. Grice's personal assessments of Mr. Taylor's skills and work experience and Mr. Donnelly's inconsistent employment record are consistent with the application form and the written aptitude test. Mr. Taylor was approved for the written aptitude test, and was not rejected immediately thereafter, but rather put on "hold".

Mr. Taylor's application was the only one on "hold" at the time, and this might make one suspicious, but on the other hand if the intent was to discriminate against Mr. Taylor, it is probable that he would have been rejected at the point of the conclusion of the interview and never even been put on "hold".

Mr. Taylor testified he called Hydro about ten days after the interview to determine whether he was accepted or not, received the

impression that he had been accepted and would be receiving medical forms shortly. He did receive such forms, went to his physician for the necessary medical evaluation and the forms were completed and returned to Hydro by the physician.

Mr. Taylor's next communication with Hydro was the letter of rejection of October 20, 1976 (Exhibit No. 16). He then telephoned Hydro, and was told that it was corporate policy not to give reasons for rejection of an application.

Unfortunately, thinking he had been accepted for employment with Hydro, Mr. Taylor withdrew from the engineering course he had enrolled in at Lakehead University. Hydro had no knowledge that Mr. Taylor had the opportunity of pursuing a university education or that there was any urgency to deciding upon his application for employment with Hydro for this reason, as Mr. Taylor did not tell Hydro anything at all about his possible university career.

Mr. Taylor then found employment with a towing firm, was unemployed for a while, and found steady employment in February, 1978, with a company utilizing his mechanical trade and background.

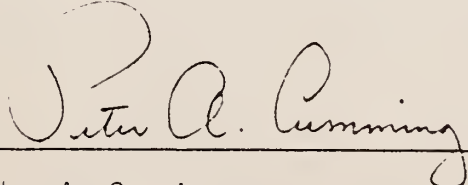
Mr. Taylor claimed as special damages the difference in what he would have earned in salary and fringe benefits at Hydro and what he received with the towing business employer, his expenses in looking for work elsewhere when rejected by Hydro, his wasted expense in travelling once to Lakehead University, his lost downpayment on an apartment in Thunder Bay, interest on these items, and general damages for humiliation (see Exhibit No. 18).

There was no suggestion in the criteria employed by Ontario Hydro (see Exhibit No. 19 - Staffing - Policy Statements) in the recruitment of nuclear shift mechanical maintainers of any intent to discriminate on the basis of colour, race, ancestry or place of origin. On the contrary, the evidence suggested that the recruitment process is comprehensive, systematic, and fair. Moreover, both Mr. Grice and Mr. Donnelly impressed me as conscientious, competent, and fair interviewers who do a very good job. This seems borne out by the success of the recruitment program and the almost nil attrition rate. I have no doubt, considering all the evidence, in concluding that neither of them discriminated against Mr. Taylor because of his race, colour, ancestry, or place of origin. Indeed, considering all the evidence, I think they treated Mr. Taylor objectively, fairly, and with a great deal of both considerateness and consideration (see also Exhibit Nos. 23 and 24).

I have no doubt, considering all the evidence, that Mr. Grice and Mr. Donnelly, and Ontario Hydro, were trying to make decisions solely on the merits as to who should be hired for nuclear industrial mechanic positions at the times relevant to this Inquiry, and that the assessment of Mr. Taylor specifically as an applicant was done solely on the merits, with fairness, and without any discrimination because of Mr. Taylor's race, colour, ancestry, or place of origin.

For the reasons discussed, the Complaint is dismissed.

DATED at Toronto this 22nd day of June, 1981



Peter A. Cumming
Board of Inquiry

